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In re Application of
MUSSLEWHITE, JEFFREY D., *et al.*
Application No. 09/524,117
Filed: July 12, 2000
Attorney Docket No. DLY-14

DECISION ON
PETITION

OFFICE OF PETITIONS
A/C P'TENTS

This is a decision on the petition filed on July 12, 2000, requesting that the above-identified application be accorded a filing date of March 13, 2000.

Petitioner attempted to file the application on March 13, 2000. However, on June 21, 2000, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application" requiring drawings and a completed declaration covering said drawings. Petitioner then filed this July 12, 2000 petition under 37 C.F.R. §1.181 to accord the application the filing date of the date of original receipt, March 13, 2000. This petition was accompanied by the \$130.00 petition fee, a copies of two sheets of informal drawings, the affidavit of patent attorney William Johnson, Jr., and appendices that include a copy of the cover/transmittal letter with the Express Mail number indicating transmittal of a complete application, including the two sheets of drawings.

Petitioner's support for this petition, the cover letter for the application, does not clearly indicate USPTO receipt of the drawings. This evidence was prepared before deposit and therefore does not preclude the possibility that the drawings were not received, despite Petitioner's intent to include them. Appropriate proof of USPTO receipt of the drawings would be a post card return receipt indicating that the USPTO received the drawings.

Given the above, it is concluded that the USPTO did not receive the drawings in question on March 13, 2000. Therefore, with regard to the petition requesting a filing date of March 13, 2000, *the petition is dismissed.*

However, given that the USPTO now has a copy of the drawings, enough material has been received by the USPTO to satisfy the requirements for receiving a filing date under 37 C.F.R. §1.53(b). Therefore, this application is given the filing date of receipt of all of the requisite parts, which fell on July 12, 2000.

This petition still lacks a declaration that references the drawings received on July 12, 2000. Therefore, Applicant still has not filed a complete response to the June 21, 2000 notice of incomplete nonprovisional application. Applicant is hereby given TWO MONTHS to file such a declaration. If an appropriate response is not given within that time frame, this application will be considered abandoned. Extensions of time are obtainable by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. 1.136(a).

Any request for reconsideration of this decision regarding the filing date must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.53(b)".

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
Four Crystal Plaza, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Petitions Attorney Scott M. Ledford in the Office of Petitions at (703) 306-5593.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosures: Filing Receipt
Notice to File Missing Parts of NonProvisional Application